

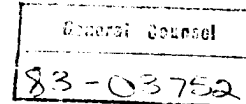


EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

May 2, 1983



LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of Justice
Department of State
Department of Defense
Department of Commerce
Department of Agriculture
Department of Energy
Department of Education
Department of Labor
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of the Treasury
Department of Transportation
Veterans Administration
National Aeronautics and Space Administration
Office of Personnel Management
Central Intelligence Agency
Federal Emergency Management Agency
Tennessee Valley Authority
Smithsonian Institution
United States Postal Service
Environmental Protection Agency

Look at this one carefully

SUBJECT: GSA draft bill, "To amend chapter 29 of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records creation"

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than C.O.B.
May 31, 1983.

Direct your questions to Gregory Jones at (395-3802), of this office.

Views letter sent 31 May

OGC 83-044P6

[Signature]
James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: M. Chaffee
F. Reeder



Services

Administration

Washington, DC 20405

Jones

RECEIVED

83 APR 26 P 1: 29

APR 21 1983

Honorable David A. Stockman
Director
Office of Management and Budget
Washington, DC 20503

Dear Mr. Stockman:

Transmitted herewith for appropriate action are six copies of a proposed letter to the President of the Senate enclosing a draft bill "To amend chapter 29, of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records creation."

This proposal is identified as Item No. 98-11c of our Legislative Program for the 98th Congress, 1st session. This item, which appeared in our Legislative Program for the 97th Congress, 2nd session, has been modified to incorporate agency comments.

Your early comments on this legislation will be appreciated.

Sincerely,

Ray Kline
Deputy Administrator

Enclosures



General
Services

Administration

Washington, DC 20405

Honorable George Bush
President of the Senate
Washington, DC. 20510

Dear Mr. President:

Transmitted herewith for referral to the appropriate committee is a draft bill prepared by the General Services Administration "To amend chapter 29 of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records creation."

This proposed bill will clarify the Administrator of General Services' authority to determine whether a document, recording, or other item created by a Federal agency in the course of conducting its business is a record. This authority has been called into question by a Department of Justice opinion on the legality of the State Department's procedures for determining whether transcripts of telephone conversations of former Secretary of State Henry Kissinger are personal papers or Federal records.

The authority of the Administrator to determine whether an item is a record is closely associated with his other records responsibilities in chapters 21, 29, and 33 of title 44--to assist agencies with all aspects of their records management programs; to authorize disposal of records no longer needed for agency business that do not have other values warranting their continued preservation; and to accession those records determined by the Archivist of the United States to be permanently valuable. The Administrator's ability to carry out these responsibilities is hampered if the agency is the sole judge of which of its documents, recordings, and other items are records.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of the proposed legislation to Congress.

Sincerely,

Enclosure

DRAFT

A BILL

To amend chapter 29 of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records creation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2904 of title 44, United States Code, is amended:

- (1) by inserting "(a)" immediately before "The Administrator shall provide guidance and assistance";
- (2) by adding after paragraph (10) the following new subsection:

"(b) The Administrator, in consultation with the creating agency and the Archivist of the United States, shall determine whether an item created or received by a Federal agency is a record as defined in section 3301 of this title. This determination shall be binding on all Federal agencies."

Access to Records



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

May 2, 1983

General Counsel

83-03754

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of Justice
Department of State
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Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of the Treasury
Department of Transportation
Veterans Administration
National Aeronautics and Space Administration
Office of Personnel Management
Central Intelligence Agency
Federal Emergency Management Agency
Tennessee Valley Authority
Smithsonian Institution
United States Postal Service
Environmental Protection Agency

SUBJECT: GSA draft bill, "To amend chapter 33 of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records disposal"

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than C.O.B.
May 31, 1983.

Direct your questions to Gregory Jones at (395-3802), of this office.

Views letter sent 31 May

CGC 83-04486


James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: M. Chaffee

F. Re: Approved For Release 2008/11/24 : CIA-RDP95B00895R000200090042-9



Service

Administration Washington, DC 20405

F-1-2182.31
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33 APR 26 P 1: 29

APR 21 1983

DIRECTOR'S
CORRESPONDENCE UNIT

Honorable David A. Stockman
Director
Office of Management and Budget
Washington, DC 20503

Dear Mr. Stockman:

Transmitted herewith for appropriate action are six copies of a proposed letter to the President of the Senate enclosing a draft bill "To amend chapter 33, of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records disposal."

This proposal is identified as Item No. 98-11d of our Legislative Program for the 98th Congress, 1st session. This item, which appeared in our Legislative Program for the 97th Congress, 2nd session, has been modified to incorporate agency comments.

Your early comments on this legislation will be appreciated.

Sincerely,

Ray Kline
Deputy Administrator

Enclosures



General
Services

Administration

Washington, DC 20405

Honorable George Bush
President of the Senate
Washington, DC 20510

Dear Mr. President:

Transmitted herewith for referral to the appropriate committee is a draft bill prepared by the General Services Administration "To amend chapter 33 of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records disposal."

The proposed bill will clarify the Administrator's authority to dispose of records that have been transferred to the National Archives of the United States that do not have sufficient administrative, legal, research, or other value to warrant their continued preservation by the Government. This authority is weakened by the current requirement that written consent to proposed disposals must be obtained from the head of the agency that previously had legal custody of the records.

The National Archives proposes disposal of records in its legal custody only when the records have received no use and the records do not meet the current appraisal criteria for permanent retention. Frequently these records come into the National Archives of the United States only because they were interspersed with permanently valuable records and were not separable at the time of accessioning.

Normally the required written consent is given routinely, although that requirement creates extra paperwork and long delays. Occasionally, some agency heads refuse to give their consent, which means that records that have no enduring value in the opinion of professional archivists continue to occupy very limited archival storage space at considerable expense to the Government. Records determined to lack enduring value would be returned to the agency for disposition if the agency requested that during the consultation process.

The Administrator's authority to dispose of records that lack continuing value is closely associated with his other responsibilities in chapters 21 and 29 of title 44--to assist agencies with all aspects of their records management programs; to determine what items are records; and to accession those records designated by the Archivist of the United States to have continuing value. The Administrator's ability to carry out these responsibilities is hampered if the agency is the final judge of which records in the legal custody of the National Archives must be preserved indefinitely.

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The Office of Management and Budget has advised that from the standpoint of the Administration's program, there is no objection to the submission of the proposed legislation to Congress.

Sincerely,

Enclosure

A BILL

To amend chapter 33 of title 44, United States Code, to clarify the authority of the Administrator of General Services with respect to records disposal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3303a of title 44, United States Code, is amended:

- (1) by deleting subsection (e);
- (2) by substituting the following subsection:

"(e) The Administrator in consultation with the Archivist of the United States may approve and effect the disposal of records that have been transferred to his legal custody as part of the National Archives of the United States, after consultation with the head of the agency that transferred legal custody."